

REMARKS

Claims 1-13 and 17-19 are pending in the present application. Claims 14-16 have been cancelled and claims 17-19 have been added as a result of this response. Claims 1, 17, and 19 are independent claims.

The Examiner required restriction of one of the following inventions:

I. Claims 1-11, drawn to a method of conducting R chemical reactions, classified in class 422, subclass 99.

II. Claims 12 and 13, drawn to a kit for conducting R chemical reactions, classified in class 422, subclass 102.

III. Claims 14 and 15, drawn to a system for conducting R chemical reactions, classified in class 422, subclass 63.

IV. Claim 16, drawn to a computer readable data carrier loaded with a computer program system, classified in class 700, subclass 266.

In response to the Examiner's restriction/election requirement, Applicants elect, with traverse, to prosecute Group I including claims 1-11. Applicants specifically reserve the right to file a divisional application directed to non elected claims 12-16.

With respect to Applicants' traversal, Applicants respectfully direct the Examiner's attention to M.P.E.P. § 803 which states:

"If the search and examination of an entire application can be made without serious burden, the Examiner must examine on the merits, even though it includes claims too distinct or independent invention." (emphasis added)

There are two criteria for a proper requirement for restriction. The invention should be independent or distinct, and

"2) there must be a serious burden on the Examiner if a restriction is not required. See M.P.E.P. §803.092, 806.04 A through J, 808.01(a) and 808.02."

Applicants respectfully submits that the Examiner would not be unduly burdened if forced to examine Groups I, II, III, and IV.

With regard to the Examiner's Restriction of inventions I and IV in paragraph 3, bridging pages 2 and 3 of the communication dated September 9, 2003, the Examiner asserts "the apparatus as claimed can be used to practice another and materially different process, such as non-chemical operations, such as selecting questions to ask a student during an evaluation based on answers the student gives". In response, Applicants respectfully assert that the computer program of claim 16 must be used to practice the process of claim 1, since claim 16 depends from 1. Accordingly, Applicants request withdrawal of the Restriction on this basis.

Applicants have also added new independent claim 17, which includes all the features of the method of independent claim 1 and all the features of the kit of dependent claim 12. As a result, Applicants respectfully submit that claim 17 is a linking claim which links the group I and II inventions. In the event claim 17 is found allowable, Applicants respectfully request reconsideration and allowance of dependent claims 12 and 13.

Similarly, Applicants have added new claim 19 which includes all of the features of the method of claim 1 and all of the features of the computer readable data carrier of dependent claim 16. As a result, independent claim 19 acts as a linking claim between the group I and IV

inventions and in the event that claim 19 is found allowable, Applicants respectfully request reentry and reconsideration of claim 16.

For all of the above stated reasons, reconsideration and withdrawal of the outstanding restriction/election requirement and favorable allowance of all claims in the instant application are earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact John A. Castellano at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Very truly yours,

HARNESS, DICKEY & PIERCE, PLC

By _____

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JAC/cah